

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

Norfolk Division

Case No.

2:24cv 681

(to be filled in by the Clerk's Office)

DONALD J. LOWE

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

CARLOS DEL TORO,

Secretary,

U.S. Department of the Navy

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Jury Trial: (check one) ☒ Yes ☐ No

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Donald J. Lowe		
Address	1011 Copper Stone Cir		
	Chesapeake	VA	23320
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	United States		
Telephone Number	(757) 450-8724		
E-Mail Address	donald.j.lowe@gmail.com		

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	Carlos Del Toro		
Job or Title <i>(if known)</i>	Secretary of the Department of the Navy		
Address	1000 Navy Pentagon, Room 4D652		
	Washington	D.C.	20350
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	United States		
Telephone Number			
E-Mail Address <i>(if known)</i>			

☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name			
Job or Title <i>(if known)</i>			
Address			
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County			
Telephone Number			
E-Mail Address <i>(if known)</i>			

☐ Individual capacity ☐ Official capacity

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Defendant No. 3

Name _____

Job or Title (if known) _____

Address _____

City

State

Zip Code

County _____

Telephone Number _____

E-Mail Address (if known) _____

☐ Individual capacity ☐ Official capacity

Defendant No. 4

Name _____

Job or Title (if known) _____

Address _____

City

State

Zip Code

County _____

Telephone Number _____

E-Mail Address (if known) _____

☐ Individual capacity ☐ Official capacity**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☒ Federal officials (a *Bivens* claim)

☐ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

The Equal Protection Clause of the 14th Amendment and the Due Process Clause of the 5th Amendment prohibit the federal government from discriminating against individuals based on certain characteristics to include genetic information, disability, and religion. I was discriminated against based on my genetic information, disability, and religion.

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.
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III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

Commander, Navy Reserve Forces Command
1915 Forrestal Drive
Norfolk, VA 23551-4615

- B. What date and approximate time did the events giving rise to your claim(s) occur?

From August 2021 through March 2023

- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

When the COVID shots became mandatory for uniformed personnel, I explained my position (they were unlawfully mandated) to my supervisor and submitted multiple IG and OSC complaints. My chain of command began scheming to get me out of my position as the Director of Policy for Manpower and Pay at Commander, Navy Reserve Fores Command.

Later, the shots were mandated for Civilian employees (including me) and I submitted religious and medical requests for reasonable accommodation. I never received a reasonable accommodation for the shots in the form of an exemption. I was threatened with disciplinary action up to and including removal from federal service. I was labeled "not fully vaccinated" and then it was mandated that I participate in EUA nasal swab testing prior to entering my place of work. My "vaccine status" was requested multiple times and I was asked to review and attest to my subordinates "vaccine status." I refused the testing and I refused to divulge my vaccine status. I explained my position – that the shots were genetic products and requesting my vaccine status was a violation of GINA – multiple times to my supervisor and anyone who would listen. I was labeled "unprofessional" for explaining my stance at a morning meeting, and I was barred from entry to my place of work. My position was demoted in status (not pay) and my belongings were cleared from my desk and packed into boxes while I was barred from entering my place of work.

My subordinate (Ms. Kim Moreno) was witness to the administrative actions taken against me by my supervisor (Mr. Tom Trotter) and his supervisor (Captain Andrew Wood). The Personnel department submitted a false org chart in response to my formal complaints. False reasoning was given for degrading the status of my position. RADM John Schommer created a policy which denied me entry into the building.

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

- Severe emotional distress
- Inability to continue my federal service career (over ten years accrued currently) due to hostile work environment

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

- \$200,000 for wanton discrimination shaming and intentional infliction of emotional distress.

- 15-year FERS deferred retirement. I had full intention of completing 20 years of federal service with the option of "buying back" my military service at the end of 20 years. I started my federal service as a GS-13 at the age of 34 and planned on a twenty-year career working out perfectly with the available retirement options. My father and I both joined the Air Force at a young age (I was 17 when I in-processed at the Air Force Academy), we were both veterans of foreign wars (I spent a year in Kabul as the Chief of Transportation for FMS cargo), and we were both working on our FERS retirements. My father is scheduled to retire from federal service in January of 2025, but I was forced out of my government position due to discrimination and a hostile work environment. I am happier at my new job, but regret not being able to complete my career as a civil servant.

- Remove any requirements to get mRNA injections as a federal employee. Remove all policies regarding mRNA injections. Remove all databases containing genetic information on federal employees (especially those tracking COVID shot status).

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

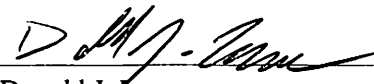
A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 22 November 2024

Signature of Plaintiff

Printed Name of Plaintiff


Donald J. Lowe

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

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Address

City

State

Zip Code

Telephone Number

E-mail Address
